



**CITY OF PLANO
COUNCIL AGENDA ITEM**

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| CITY SECRETARY'S USE ONLY | |
| <input type="checkbox"/> Consent | <input type="checkbox"/> Regular <input type="checkbox"/> Statutory |
| Council Meeting Date: | 11/26/12 |
| Department: | Animal Services |
| Department Head | Brian Collins |
| Agenda Coordinator (include phone #): Doris Callaway, Ext. 7494 | |

CAPTION

An Ordinance of the City of Plano, Texas creating Article XII of Chapter 4, Code of Ordinances, to allow non-profit search and rescue organizations to conduct search and rescue training at designated areas of City parks after obtaining a permit from the Animal Services Division; amending Section 4-1 (Definitions) of Article I, Section 4-51(d) (Public Nuisances) of Article III, and Section 15-4 (a)(6) of Article I, Chapter 15 to allow dogs participating in authorized search and rescue training to be off-leash without violating the at-large and nuisance ordinances; amending Section 4-153(d)(1) (Dangerous Animals) of Article IX to exempt dogs used for law enforcement purposes at the time of the attack, bite or mauling from the euthanasia provision per state law; and providing a penalty clause, a severability clause, a repealer clause, a publication clause and an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

| FISCAL YEAR: 2012-13 | Prior Year (CIP Only) | Current Year | Future Years | TOTALS |
|-----------------------------|--------------------------|-----------------|-----------------|----------|
| Budget | 0 | 0 | 0 | 0 |
| Encumbered/Expended Amount | 0 | 0 | 0 | 0 |
| This Item | 0 | 0 | 0 | 0 |
| BALANCE | 0 | 0 | 0 | 0 |

FUND(S): N/A

COMMENTS: This item has no fiscal impact.

STRATEGIC PLAN GOAL: An Ordinance to allow qualified Search and Rescue groups to provide off-leash training in City parks relates to the City's goal of a Safe Large City.

SUMMARY OF ITEM

This item allows permitted non-profit Search and Rescue Organizations to utilize approved areas of the City's parks to perform off-leash search and rescue training without violating the at-large and nuisance ordinances and amends the Dangerous Animal ordinances to comply with state law by providing an exemption to the ordering of euthanasia if the dog was being used for law enforcement purposes when it attacked, bit, or mauled a person.



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| List of Supporting Documents: Ordinance, Animal Services Memo and letter of support from Animal Shelter Advisory Committee. | Other Departments, Boards, Commissions or Agencies |
| | |



MEMORANDUM

DATE: November 8, 2012

TO: Brian Collins, Director of Environmental Health

FROM: Jamey Cantrell, Animal Services Manager

SUBJECT: Revisions to Chapter 4 – Animals of the City’s Code of Ordinances

At the October 19, 2010, Animal Shelter Advisory Committee meeting, a representative of a local Search and Rescue (SAR) group provided public comments and asked that City ordinance be revised to allow for off-leash training for these specialized canines. SAR training and benefits provided to the public were detailed and they stated that Plano was chosen due to an extensive park and trail system that is ideal for SAR training. The Committee agreed that these changes would be in the City’s best interests and Animal Services has since been working with the City’s Parks, Legal, and Risk Management Departments to finalize language that would allow such activity. The proposed changes further enhance the City’s reputation of a progressive, animal-loving community as research was able to find no other municipality in the country that has similar provisions for SAR training.

These changes require qualified non-profit SAR groups to obtain a permit from Animal Services that allows them to perform off-leash training only in areas designated for this use by Parks Department personnel. SAR groups must meet minimum training standards and insurance coverage provisions to be approved for a permit. SAR groups must also get approval from both Animal Services and Parks staff at least ten days prior to training to ensure use of the park by others is not impeded. All other park rules and city ordinances must be adhered to at all times.

A final change to the Dangerous Animal section of the ordinances was made to bring city regulations in line with state law. The provision eliminates the euthanasia disposition for animals that attack, bite, or maul an individual if at the time of the incident they are being used by a peace officer for law enforcement purposes. This situation has never arisen in Plano, but the change was made to prevent potential conflicts.



October 22, 2012

Dear Mayor Dyer and Members of the City Council,

At our meeting on October 19, 2010, the Plano Animal Shelter Advisory Committee was approached by a representative of Search One Rescue, a local non-profit Search and Rescue (SAR) organization. They requested that Plano's ordinances be revised so that they could legally perform off-leash training within the City, which is a vital component to their becoming certified SAR canines.

SAR dogs are used to locate individuals by trailing the faintest of scents. These remarkable animals have saved the lives of countless children, elderly, and others who lost their bearings and were unable to return to a safe place or were trapped by a natural or man-made disaster. They can also be trained to locate the remains of victims of violent crimes and in April of this year, the group that approached us played a vital part in locating the body of Johnathan Ramsey, the ten year old whose father and stepmother starved him and dumped his body in rural Ellis County.

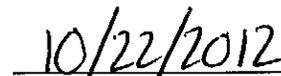
Perhaps the most remarkable aspect of these SAR groups is that they are comprised almost entirely of people who spend countless hours creating a bond with the dog, training it to harness its natural abilities to the benefit of others, and responding to calls for help regardless of time or location without asking for any reimbursement. They volunteer this time so that they can save lives or at the very least give closure to a grieving family.

Plano's unique parks system, with its large wildlife preserves and secluded natural spaces, make ideal training landscapes since these animals must learn to deal with a variety of environmental challenges. SAR canines and their handlers team up to provide a public service that few dogs or people have the ability or expertise to offer and in fact, Plano benefits from their work as the Plano Police Department has utilized their special skills on several occasions.

It is for these reasons that we recommend that "Article XII. Search and Rescue Training in Public Places," and all associated changes, be approved by the Council at your earliest convenience.



Sunny Ruth, DVM, Chair
Animal Shelter Advisory Committee


DATE

An Ordinance of the City of Plano, Texas creating Article XII of Chapter 4, Code of Ordinances, to allow non-profit search and rescue organizations to conduct search and rescue training at designated areas of City parks after obtaining a permit from the Animal Services Division; amending Section 4-1 (Definitions) of Article I, Section 4-51(d) (Public Nuisances) of Article III, and Section 15-4 (a)(6) of Article I, Chapter 15 to allow dogs participating in authorized search and rescue training to be off-leash without violating the at-large and nuisance ordinances; amending Section 4-153(d)(1) (Dangerous Animals) of Article IX to exempt dogs used for law enforcement purposes at the time of the attack, bite or mauling from the euthanasia provision per state law; and providing a penalty clause, a severability clause, a repealer clause, a publication clause and an effective date.

WHEREAS, staff recommends allowing qualified members of a non-profit search and rescue organization to conduct dog search and rescue training at designated areas of City parks without violating certain sections of the Code of Ordinances; and

WHEREAS, staff further recommends amendment of the Dangerous Animals ordinance to exempt dogs from being euthanized as a result of an attack, bite, or mauling if, at the time of the incident, the animal was used by a peace officer for law enforcement purposes, to be consistent with state law; and

WHEREAS, the City Council of the City of Plano, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended additions and amendments should be approved and adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Article XII of Chapter 4, Animal Regulations, is hereby created to read as follows:

“ARTICLE XII. SEARCH AND RESCUE TRAINING IN PUBLIC PLACES

Sec. 4-206. Permit Required.

- (a) After securing a permit from the Animal Services Division, search and rescue training may be conducted by qualified members of search and rescue organizations in designated areas of City parks between the hours of 5:00 a.m. and 11:00 p.m., unless different hours have been designated for the park facility.
- (b) Members of the search and rescue organization must possess at least a NASAR SARTECH III level of certification or a comparable level of certification before being eligible to conduct search and rescue training under this program.
- (c) A search and rescue organization seeking a Search and Rescue Training Permit shall submit a complete permit application to the Animal Services Manager and provide the following information:

- (1) Contact information for the search and rescue organization and the individuals authorized to conduct search and rescue training on behalf of the organization;
 - (2) Copy of the NASAR SARTECH III certification or its equivalent for each of the individuals conducting search and rescue training;
 - (3) Copy of the search and rescue organization's training materials;
 - (4) Copy of vaccination and registration records for each dog participating in search and rescue training; and
 - (5) Proof of general liability insurance coverage in the amount of \$100,000. The insurance carrier of this policy must be rated "A-" or better by A.M. Best's Key Rating Guide and licenses to do business in the State of Texas. In addition, the policy shall include the City of Plano, its officers, agents, employees, and representatives as additional insured parties and should contain a 30 day written notice of cancellation. A Certificate of Insurance for the required coverage must be submitted to the Animal Services Division at least two weeks prior to the event.
- (d) Prior to conducting any training, a permit holder must provide a written request to conduct search and rescue training to the Plano Animal Services Manager and a designated Plano Parks Department staff member at least ten (10) business days prior to the start of training. Each written request must state the time and date of each training session, the number of trainers involved in each training session and the number of dogs to be trained. A request may be denied based on availability of the training site.
- (e) It shall be unlawful for any person to conduct search and rescue training under this section without a permit from the Animal Services Division.
- (f) It shall be unlawful for any person who has received a permit for search and rescue training to fail to comply with the permit requirements and the provisions of this Article.

Sec. 4-207. Revocation, denial and appeal.

- (a) The Animal Services Manager may revoke or refuse to issue a permit if requirements under Section 4-206 (a)–(d) are not met.
- (b) Denial or revocation of a permit may be appealed to the Health Director. The appeal must be made in writing within ten (10) business days of receiving written notice of permit denial or revocation from the Animal Services Manager. If no appeal request is received within a ten (10) business day period, denial or revocation of the permit becomes final. Upon receiving an appeal, the Health Director will hold a hearing at a

time and place of the Director's designation within ten (10) business days of the appeal being received. Based upon available evidence, the Health Director will make a final ruling. The decision of the Health Director shall be final.

- (c) A search and rescue organization whose training permit has been revoked may re-apply for another permit after six (6) months from the date of revocation.”

Section II. The term “At large” in Section 4-1, Article I, Definitions and Enforcement, of Chapter 4, Animal Regulations, of the City of Plano Code of Ordinances is hereby amended to read as follows:

“*At large* means an animal that is:

1. Not confined to premises of the owner by substantial physical means of restraint of sufficient height, strength, and/or manner of construction so as to preclude the animal from leaving the premises of the owner or being able to come within six (6) feet of any public area; or
2. Not physically and continually restrained by a person by means of a tether of proper strength and of a length not more than six (6) feet.

This definition does not apply to:

1. An animal in any City-designated dog park so long as it is in compliance with all other requirements of this chapter.
2. An indigenous wild or feral animal;
3. An animal used by a peace officer for law enforcement purposes; or
4. A search and rescue dog participating in authorized search and rescue activities or search and rescue training.”

Section III. Section 4-1 of Article I, Definitions and Enforcement, of Chapter 4, Animal Regulations, of the City of Plano Code of Ordinances is hereby amended to add the following definitions:

“*NASAR* means the National Association for Search and Rescue, which is a non-profit corporation that provides training and certification resources for search and rescue, and emergency rescue efforts.

SARTECH III refers to basic level of certification of persons issued by the National Association for Search and Rescue.

Search and rescue activity refers to any activity by a trained search and rescue dog under the direction and control of a non-profit search and rescue organization or governmental entity to assist in the location of lost or missing persons or for other law enforcement or public safety purposes being performed at the request of a law enforcement agency.

Search and rescue organization refers to a group of volunteers operating as a non-profit organization that trains dogs to assist in the location of lost or missing persons or for other law enforcement or public safety purposes.

Search and rescue training means authorized training of a dog to provide search and rescue activities by a member of a permitted search and rescue organization in compliance with the requirements of their permit.”

Section IV. Section 4-51(d) of Article III, Public Nuisances, of Chapter 4, Animal Regulations, of the City of Plano Code of Ordinances is hereby amended to read as follows:

“Sec. 4-51. Nuisances.

- (d) It is an affirmative defense to prosecution under subsections (b) and (c) that:
- (1) The property was owned, leased, or controlled by the owner of the animal at the time it defecated;
 - (2) The owner of the property or person in control of the property had given prior consent for the animal to defecate on the property;
 - (3) The animal is being used by a peace officer for law enforcement purposes; or
 - (4) The animal is under the direction and control of a non-profit search and rescue organization participating in authorized search and rescue activity.”

Section V. Section 4-153(d)(1) of Article IX, Dangerous Animals, of Chapter 4, Animal Regulations, of the City of Plano Code of Ordinances is hereby amended to read as follows:

“Sec. 4-153. Hearing.

- (d) For the Health Director to deem the animal dangerous, he must find that the animal meets the definition of a dangerous animal as listed in section 4-100 of this chapter and that the destruction, removal, or registration of the animal is necessary to preserve the public health, safety, and welfare. If the animal is determined to be dangerous, the Health Director or his designee shall order that the owner comply with one (1) of the following:
- (1) Euthanasia of the dangerous animal:
 - a. Shall be ordered if the Health Director determines the animal caused the death or serious bodily injury of a person;
 - b. May be ordered if the Health Director determines the animal caused bodily injury to a person;

- c. May be ordered if the Health Director determines the animal was outside its enclosure or yard and caused death to another animal;
- d. May be ordered if the Health Director determines the animal was outside its enclosure or yard and caused serious bodily injury to another animal and has made at least one (1) unprovoked attack against an animal or person on a previous occasion.
- e. The owner of the animal may elect euthanasia.
- f. Euthanasia is not allowed by State law if the attack, bite, or mauling occurred while the dog was being used by a peace officer for law enforcement purposes. (*Health and Safety Code*, Section 822.003, as amended.)”

Section VI. Section 15-4(a)(6) of Article I, Chapter 15, Parks and Recreation, of the City of Plano Code of Ordinances is hereby amended to read as follows:

“Sec. 15-4. Activities allowed with a permit or facility use agreement.

6. *Animals.*

- (a) It shall be unlawful to ride, drive, lead, or let loose any animal, reptile or fowl of any kind, except in designated areas as indicated by City signage. These restrictions, however, shall not apply to dogs and cats when restrained by a leash not more than six (6) feet long. Such leash shall at all times serve as a connection between the dog or cat and the person that accompanies the dog or cat.
- (b) It shall be unlawful for any person to tie or restrain an animal by attaching its leash to fencing, trees, benches, bleachers, poles or other park facility infrastructure.
- (c) The leash requirements shall not apply to dogs being used by a peace officer for law enforcement purposes, or dogs participating in authorized search and rescue training and activity as allowed by ordinance.
- (d) A person commits an offense if the person accompanying the animal fails to immediately remove and dispose of any excreta the animal produces.
- (e) A person commits an offense if the person accompanying the animal fails to visibly have in his possession materials that can be used to immediately remove and dispose of any excreta the animal produces.
- (f) With the exception of service animals trained to assist individuals with a disability and animals participating in a special event sponsored by the City and approved by the Director, no animals are permitted inside park facility buildings, swimming

facilities or playground areas. Service animals that are trained to assist individuals with a disability are permitted in all park facilities."

Section VII. Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VIII. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section IX. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section X. All provisions of the Code of Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section XI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this the 26th day of November, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY